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COMPLETE TITLE OF CASE:

JOSEPH C. DERLETH,

Appellant

v.

JAMIE L. DERLETH AND STATE OF MISSOURI.

Respondents

DOCKET NUMBER WD76634

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: MAY 13, 2014

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Patrick William Campbell, Judge

Appellate Judges:

Division One
Joseph M. Ellis, PJ., Karen King Mitchell, Anthony Rex Gabbert, JJ.,

Attorneys:

Daniel David Lane, Independence, MO, Counsel for Appellant,

Attorneys:

John R. Suermann, Jefferson City, MO, Counsel for State of Missouri, Respondent,

Jamie L. Derleth, Lee's Summit, MO, Respondent Acting Pro Se

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

JOSEPH C. DERLETH,

Appellant,

v.

**JAMIE L. DERLETH AND STATE OF
MISSOURI,**

Respondents

WD76634

Jackson County

Joseph C. Derleth appeals the circuit court's judgment affirming an administrative decision of the Family Support Division which concluded that Derleth's child support arrears totaled \$13,139.06 as of January 30, 2009. Derleth contends that the circuit court erred in affirming the agency's decision: (1) because the court misapplied the law in finding that collateral estoppel applied regarding a 1996 order because, pursuant to Section 536.140.2(3); 536.140.2(4), 536.140.2(6) and 536.140.2(7), the amount of support owed as stated in the 1996 order is an extraneous finding, conflicts with the finding in a 2002 order, and contains a mathematical error; (2) because the decision is against the weight of the evidence and fails to consider evidence as required by Section 536.140.2; (3) because it is a mathematical impossibility to come to the conclusions in the June 1996 order based on the start date in the original 1990 order and considering the number of payments due and the evidence of the number of payments made; (4) because the failure to hold a hearing violated Sections 536.140.2(5) and 536.140.3 in that a hearing is allowed and was requested but a judgment was entered without an opportunity to present evidence de novo, and; (5) because the court's judgment misapplied the law and violated Section 452.370.1 in that the amounts adjudged due exceed the amounts mathematically due under the July 10, 1990 order and, therefore, the court's ruling modifies the amount of child support due under the 1990 order without finding a substantial and continuing change of circumstances.

AFFIRMED

Division One holds:

- (1) The circuit court did not err in affirming the agency's conclusion that collateral estoppel applied regarding a 1996 order pursuant to Section 536.140 because the amount of support owed as stated in the 1996 order was not an extraneous finding, did not conflict with the finding in a 2002 order, and Derleth is precluded from relitigating the circuit court's 1996 calculations.

- (2) The circuit court did not err in affirming the agency's determination because the determination is not against the weight of the evidence.
- (3) The circuit court did not err in affirming the agency's determination because in arguing that the agency's determination is a mathematical impossibility Derleth narrowly focuses on the 1990 order while conceding that arrearages prior to the 1990 order were consolidated into the 1996 arrearage calculation and Derleth is collaterally estopped from relitigating the propriety of the court's 1996 arrearage determination.
- (4) The circuit court did not err in denying Derleth a hearing as the court's consideration of additional evidence was discretionary and the evidence Derleth sought to present was irrelevant.
- (5) The circuit court did not err in affirming the agency's decision as the decision does not modify the July 10, 1990 order, in violation of Section 452.370.1, because it changes nothing with regard to the 1990 order by honoring the 1996 arrearage calculation.

Opinion by Anthony Rex Gabbert, Judge

Date: May 13, 2014

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